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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 DUNCAN J. MCNEIL, III,)
12) CASE NO. C09-0764 RSM
13 Plaintiff,)
14 v.) ORDER DENYING PLAINTIFF'S
15 UNITED STATES, *et al.*,) MOTION FOR LEAVE TO FILE IN
16 Defendants.) FORMA PAUPERIS

17 This matter comes before the Court on Plaintiff's "Motion for Leave to Proceed *In*
18 *Forma Pauperis* ("IFP")." (Dkt. #3). In his Report and Recommendation (Dkt. #7), the
19 Honorable Brian A. Tsuchida, United States Magistrate Judge ("Judge Tsuchida"),
20 recommended that Plaintiff's motion be dismissed because venue is improper and because
21 Plaintiff's complaint consists solely of conclusory statements that do not contain factual
22 support and therefore fails to state a claim.

23 In his objection to Judge Tsuchida's recommendation, Plaintiff contends that venue is
24 proper because his principal place of business is in Seattle, Washington. He offers a Proposed
25 Second Amended Complaint stating that Plaintiff attended the University of Washington, has
26 a business phone and fax number in this district, and has "multiple business relationships" in
27 this district. (Dkt. #9 at ¶ 5). However, the very same paragraph explains that Plaintiff "is not
28 conducting any business." (*Id.*). In fact, Plaintiff is unemployed. (Motion for Leave to

1 Proceed IFP, Dkt. #3 at 1). Since Plaintiff is not conducting any business, he cannot have a
2 principal place of business, and therefore, venue cannot be proper on these grounds. In fact,
3 Plaintiff seeks venue in this Court not because this is the proper forum, but because Plaintiff
4 has been deemed a vexatious litigant in the Eastern District of Washington, the proper venue,
5 and is subject to a pre-filing order in that district. *See McNeil v. Spokane County Jail*, No.
6 C04-371-AAM (E.D. Wash.) (Dkt. #10, 25).

7 Plaintiff's Proposed Second Amended Complaint does not cure the defects pointed out
8 in Judge Tsuchida's Report and Recommendation. Accordingly, this court adopts the Report
9 and Recommendation.

10 Additionally, the record indicates that Plaintiff's monthly social security benefits
11 payment before deductions is \$940.00. (Dkt. #3 at 3). IFP status must be reserved for those
12 who are truly indigent.

13 For the above reasons, having reviewed the relevant pleadings, the declarations and
14 exhibits attached thereto, the Report and Recommendation of Judge Tsuchida, and the
15 remainder of the record, the Court hereby finds and ORDERS:

16 (1) The Court adopts the Report and Recommendation (Dkt. #7).

17 (2) Plaintiff's Motion for Leave to Proceed IFP (Dkt. #3) is DENIED.

18 (3) Plaintiff's Complaint is DISMISSED without prejudice.

19 (4) Plaintiff's request for reasonable accommodations, waiver of costs and fees, a
20 PACER account with a waiver of PACER fees, appointment of counsel, and modifications in
21 Court and Clerk's rules, policies and procedures (Dkt. #6) is DENIED as moot.

22 (5) The Clerk is directed to forward a copy of this Order to all counsel of record.

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24 DATED this 17th day of September, 2009.

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28 RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE